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Attorneys for defendant Roush Industries, Inc.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTIAN LIFE CENTER, INC.,
an individual [sic],

Plaintiff,

v.

FORD MOTOR COMPANY, a
Delaware Corporation; ROUSH
INDUSTRIES, INC., A
CORPORATION; ROUSH
PERFORMANCE, INC. AKA
KOVINGTON PERFORMANCE
HOLDINGS, INC.; A
CORPORATION and DOES
3through 20, inclusive,

Defendants.

CASE NO.:

**NOTICE OF REMOVAL BY
DEFENDANT ROUSH
INDUSTRIES, INC. PURSUANT TO
28 U.S.C. §§ 1441 ET SEQ. AND 1332**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1441 et seq. and 1332, defendant Roush Industries, Inc. (“Roush”) by and through its undersigned counsel, gives notice that it is removing this action, entitled *Christian Life Center, Inc. v. Ford Motor Company, etc., et al.*, Case No. STK-CV-UBC-2020-0004861, currently pending in the Superior Court of California, County of San Joaquin, to the United States District Court for the Eastern District of California. The United States District Court for the Eastern District of California has original jurisdiction

1 over this action pursuant to 28 U.S.C. § 1332(a) (diversity jurisdiction), and this
2 action may be removed to this Court pursuant to 28 pursuant to U.S.C. §§ 1441
3 and 1446(a), because the action is currently pending in the California Superior
4 Court for the County of San Joaquin.

5 **PROCEDURAL FACTS**

6 1. On June 15, 2020, Plaintiff Christian Life Center, Inc. filed a
7 Complaint against defendants Ford Motor Company and Big Valley Ford, Inc.
8 d.b.a. Big Valley Ford Lincoln. Attached as **Exhibit A** is a true and correct copy
9 of the Complaint.

10 2. On August 13, 2020, defendant Ford Motor Company (“Ford”) filed
11 its answer to plaintiff’s Complaint. Attached as **Exhibit B** is a true and correct
12 copy of Ford’s Answer.

13 3. On February 10, 2022, Plaintiff Christian Life Center, Inc. filed a Doe
14 Amendment to its Complaint, naming defendants Roush Industries, Inc. and Roush
15 Performance, Inc. as Does 1 and 2, respectively. Attached as **Exhibit C** is a true
16 and correct copy of the Amendment to Complaint.

17 4. On January 28, 2022, Plaintiff Christian Life Center, Inc. dismissed
18 Big Valley Ford, Inc. d.b.a. Big Valley Ford Lincoln, from the case. Attached as
19 **Exhibit D** is a true and correct copy of the Request for Dismissal.

20 5. On February 17, 2022, Plaintiff Christian Life Center, Inc. filed a First
21 Amended Complaint (“FAC”) against defendants Ford Motor Company, Roush
22 Industries, Inc., and Roush Performance, Inc. a.k.a. Kovington Performance
23 Holdings, Inc. (Big Valley Ford, Inc. d.b.a. Big Valley Ford Lincoln, having been
24 dismissed from the case, was not listed in the caption of the FAC.) Attached as
25 **Exhibit E** is a true and correct copy of the First Amended Complaint.

26 6. On April 15, 2022, defendant Roush Industries, Inc., through its
27 California agent for service of process, CT Corporation, was served with a copy of
28 plaintiff’s FAC. Attached as **Exhibit F** is a true and correct copy of the receipt of

1 service from CT Corporation.

2 7. Roush Performance, Inc. a.k.a. Kovington Performance Holdings, Inc.
3 had not yet been served with the Complaint or the FAC.

4 8. The Superior Court of California, County of San Joaquin, is located
5 within the geographical boundaries of the United States District Court for the
6 Eastern District of California. *See* 28 U.S.C. § 84(c)(2); 28 U.S.C. § 1441(a).

7 9. In accordance with 28 U.S.C. § 1446(d), Defendant will serve plaintiff
8 and Ford with a copy of this Notice of Removal, and the Notice of Filing of Notice
9 of Removal and supporting papers it is filing with the Clerk of the Superior Court
10 of California, County of San Joaquin.

11 **BACKGROUND FACTS**

12 10. Plaintiff's action is based upon alleged defects in its 2019 Ford F-150,
13 VIN 1FTEW1E56KFA22874 ("Vehicle"). Plaintiff alleges that its vehicle has
14 suffered from transmission problems. FAC, para. 11. Plaintiff alleges that Roush
15 was unable to conform the vehicle to the applicable express warranty in violation
16 of the California Song Beverly Consumer Warranty Act ("Song Beverly"), that
17 Roush breached the implied warranty of merchantability under Song Beverly, and
18 that Roush failed to timely conform the vehicle to warranty within 30 days under
19 California Civil Code section 1793.2(b). FAC, paras. 17, 22-23, 33-36, and 47-48.
20 All causes of action are based on alleged recurring transmission issues, including a
21 hard shift, lag, kicking, engine speed increase with no forward movement,
22 slamming into gear, valve body issues, jerking, loud engagement, and lack of
23 power. FAC, para. 11. Plaintiff does not allege any personal injuries in
24 connection with the alleged defects.

25 **TIMELINESS OF REMOVAL**

26 11. Pursuant to 28 U.S.C. §1446(b), defendant Roush files this Notice of
27 Removal within thirty days of service of the Summons and FAC. In *Destfino v.*
28 *Reiswig* (9th Cir. 2011) 630 F.3d 952, the Ninth Circuit of the United States Court

1 of Appeals held that “each defendant is entitled to thirty days to exercise his
2 removal rights after being served.” *Id.* at 956. Plaintiff served Roush with the FAC
3 on April 15, 2022. Roush has filed this Notice of Removal within thirty days after
4 being served. Defendant, therefore, has timely removed this action.

5 **STATEMENT OF CONSENT**

6 12. Co-defendant, Ford Motor Company, consents to the removal. This is
7 confirmed by the communication from its counsel, a true and correct copy of
8 which is attached as **Exhibit G**. However, this statement in the petition, regarding
9 Ford’s consent, is independently sufficient to establish Ford’s consent for purposes
10 of a removal petition. *Proctor v. Vishay Intertechnology Inc.*, 584 F.3d 1208,
11 1224-25 (9th Cir. 2009) (quoting *Harper v. AutoAlliance Int’l, Inc.*, 392 F.3d 195,
12 201-02 (6th Cir. 2004)).

13 13. Defendant is not required to investigate the identity of the remaining
14 unnamed Doe defendants or obtain their consent for removal. *See Necombe v.*
15 *Adolf Coors Co.* (9th Cir. 1998) 157 F.3d 686, 690-91; 28 U.S.C. § 1441(a).

16 **REMOVAL BASED ON DIVERSITY JURISDICTION IS PROPER GIVEN**
17 **THAT THERE IS COMPLETE DIVERSITY AND THE AMOUNT IN**
18 **CONTROVERSY EXCEEDS \$75,000**

19 14. “The district courts shall have original jurisdiction of all civil actions
20 where the matter in controversy exceeds the sum or value of \$75,000, exclusive of
21 interest and costs, and is between – (1) citizens of different states.” 28 U.S.C.
22 §1332(a)(1).

23 15. “[A] corporation shall be deemed to be a citizen of every State and
24 foreign state by which it has been incorporated and of the State or foreign state
25 where it has its principal place of business. 28 U.S.C. §1332(c)(1).
26 The amount in controversy requirement is easily met. Plaintiff alleges that it is
27 entitled to reimbursement of the amount paid for the vehicle, plus a civil penalty of
28 twice the actual damages. FAC, paras. 27 and 30. According to its Case

1 Management Statement filed on or about April 1, 2022, the actual damages sought
2 by plaintiff include the amount paid or payable for the vehicle of \$91,299.52, plus
3 another \$10,000 in incidental/consequential damages, less a use offset of
4 \$4,585.57. With a full civil penalty, the total damages sought were reported as
5 \$290,141.85. See plaintiff's Case Management Statement, specifically Attachment
6 4b, a true and correct copy of which is attached as **Exhibit H**.

7 16. By filing this Notice of Removal, Roush does not waive, either
8 expressly or impliedly, any defense, affirmative defense, or motion that may be
9 available or concede that plaintiff is entitled to any of the damages it claims.

10 17. **WHEREFORE**, defendant Roush removes this action from the
11 Superior Court, in and for the County of San Joaquin, California, to the United
12 States District Court for the Eastern District of California.

13 18. **ROUSH FURTHER REQUESTS A JURY TRIAL.**

14
15 Dated: May 13, 2022

16 BEATTY & MYERS, LLP

17 

18
19 SEAN D. BEATTY
20 JOHN W. MYERS IV
21 Attorneys for defendant Roush Industries,
22 Inc.
23
24
25
26
27
28

EXHIBIT “A”

JOURNEY LAW GROUP, INC.
Guy Mizrahi, Esq. (SBN 220930)
Arya Malek, Esq. (SBN 325782)
1762 Westwood Blvd., Suite 260
Los Angeles, CA 90024
Telephone: 424.206.4303
Facsimile: 424.220.7388

Electronically Filed
Superior Court of California
County of San Joaquin
2020-06-15 10:58:04
Clerk: Stephanie Ceja

Case Management Conference
12/10/2020 08:45 AM in 10B

Attorneys for Plaintiff, CHRISTIAN LIFE CENTER, INC.

STK-CV-UBC-2020-0004861

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN – STOCKTON COUTHUSE

CHRISTIAN LIFE CENTER, INC., an
individual

Plaintiffs,

v.

FORD MOTOR COMPANY, a Delaware
Corporation; BIG VALLEY FORD, INC. d/b/a
BIG VALLEY FORD LINCOLN, a California
Corporation; and DOES 1 through 20, inclusive,

Defendant.

Case No.

Hon.
Dept.

COMPLAINT

- 1. SONG-BEVERLY CONSUMER
WARRANTY ACT – BREACH OF
EXPRESS WARRANTY;**
- 2. SONG-BEVERLY CONSUMER
WARRANTY ACT – BREACH OF
IMPLIED WARRANTY;**
- 3. SONG-BEVERLY CONSUMER
WARRANTY ACT – CIVIL CODE
§1793.2(b)**

Plaintiff, CHRISTIAN LIFE CENTER, INC., alleges as follows against Defendants FORD
MOTOR COMPANY, BIG VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN, and
Does 1 through 20 inclusive, on information and belief formed after an inquiry reasonable under the
circumstances:

///

GENERAL ALLEGATIONS

1
2 1. Plaintiff CHRISTIAN LIFE CENTER, INC. is an individual residing in the County
3 of San Joaquin, State of California.

4 2. Defendant, FORD MOTOR COMPANY (“Manufacturer”), is a Delaware Limited
5 Liability Company doing business in the county of San Joaquin, State of California, and, at all times
6 relevant herein, was/is engaged in the manufacture, sale, distribution, and/or importing of Ford motor
7 vehicles and related equipment.

8 3. Defendant, BIG VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN
9 (“Service Facility”), is and was at all relevant times an automobile dealership business. BIG
10 VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN is and was an entity registered to do
11 business in the County of San Joaquin, State of California.

12 4. This action arises out of warranty obligations of FORD MOTOR COMPANY for a
13 vehicle purchased by the Plaintiff and for which FORD MOTOR COMPANY issued a written
14 warranty.

15 5. Plaintiff does not know the true names and capacities, whether corporate, partnership,
16 associate, individual or otherwise of Defendant issued herein as Does 1 through 20, inclusive, under
17 the provisions of section 474 of the Code of Civil Procedure. Defendants Does 1 through 20,
18 inclusive, are in some manner responsible for the acts, occurrences and transactions set forth herein,
19 and are legally liable to Plaintiff. Plaintiff will seek leave to amend this Complaint to set forth the
20 true names and capacities of the fictitiously named Defendants together with appropriate charging
21 allegations when ascertained.

22 6. All acts of corporate employees as alleged were authorized or ratified by an officer,
23 director or managing agent of the corporate employer.

24 7. Each Defendant whether actually or fictitiously named herein, was the principal,
25 agent (actual or ostensible), co-conspirator, or employee of each other Defendant and in acting as
26 such principal or within the course and scope of such employment, agency, or conspiracy, took some
27 part in the acts and omissions hereinafter set forth by reason of which each Defendant is liable to
28 Plaintiff for the relief prayed for herein.

8. On or about March 13, 2019, Plaintiff purchased a new 2019 Ford F-150, vehicle identification number 1FTEW1E56KFA22874 (“Vehicle”). Express warranties accompanied the purchase of the Vehicle to Plaintiff by which FORD MOTOR COMPANY undertook to preserve or maintain the utility or performance of Plaintiff’s vehicle or provide compensation if there was a failure in such utility or performance.

9. The Vehicle was delivered to Plaintiff with serious defects and nonconformities to warranty and developed other serious defects and nonconformities to warranty including, but not limited to the transmission and related systems, transmission has harsh shift, long lag in transmission, transmission kicks forward, rpms will go up but no forward movement, transmission slams into gear, valve body, lag in between shift, transmission will jerk, loud engagement, no power, and other defects.

FIRST CAUSE OF ACTION

Violation of the Song-Beverly Consumer Warranty Act –

Breach of Express Warranty

10. Plaintiff incorporates by reference each and every allegation set forth in the preceding and succeeding paragraphs as though herein fully restated and re-alleged.

11. Pursuant to the Song-Beverly Consumer Warranty Act (hereinafter “Song-Beverly”), Civil Code §1790 *et seq.*, the Vehicle constitutes “consumer goods” used primarily for family or household purposes and Plaintiff has used the Vehicle primarily for those purposes.

12. Plaintiff is a “buyer” of consumer goods under Song-Beverly.

13. Defendant FORD MOTOR COMPANY is a “manufacturer” or “distributor” under Song-Beverly.

14. Defendant BIG VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN is a FORD MOTOR COMPANY authorized “service facility” under Song-Beverly.

15. The foregoing defects and nonconformities to warranty manifested themselves within the applicable express warranty period. The nonconformities substantially impair the use, value and/or safety of the Vehicle.

1 16. Plaintiff delivered the Vehicle to Manufacturer's authorized repair facilities for repair
2 of the nonconformities.

3 17. Defendant wrongfully denied warranty coverage for certain nonconformities.

4 18. Defendant was unable to conform Plaintiff's Vehicle to the applicable express
5 warranties after a reasonable number of attempts.

6 19. Defendant was unable to conform Plaintiff's Vehicle to the applicable express
7 warranties after a reasonable amount of time as set forth in Song-Beverly, including but not limited
8 to Civil Code § 1793.2(b).

9 20. Notwithstanding Plaintiff's entitlement, Defendant has failed to either promptly
10 replace the new motor vehicle or promptly make restitution in accordance with the Song-Beverly
11 Consumer Warranty Act.

12 21. By failure of Defendants to remedy the defects as alleged above, or to issue a refund
13 or replacement, Defendants are in breach of their obligations under Song-Beverly.

14 22. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the Vehicle
15 and has exercised the right to cancel the purchase. By serving this Complaint, Plaintiff does so again.

16 23. Under Song-Beverly, Plaintiff is entitled to reimbursement of the price paid for the
17 Vehicle less that amount directly attributable to use by the Plaintiff prior to discovery of the
18 nonconformities.

19 24. Plaintiff is entitled to all incidental, consequential and general damages resulting from
20 Defendants' failure to comply with their obligations under Song-Beverly.

21 25. Plaintiff is entitled under Song-Beverly to recover as part of the judgment, a sum
22 equal to the aggregate amount of costs and expenses, including attorneys' fees, reasonably incurred
23 in connection with the commencement and prosecution of this action.

24 26. Plaintiff is entitled, in addition to the amounts recovered, to a civil penalty of up to
25 two times the amount of actual damages in that Defendants have willfully failed to comply with their
26 responsibilities under Song-Beverly.

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28 ///

SECOND CAUSE OF ACTION

Violation of the Song-Beverly Consumer Warranty Act –

Breach of Implied Warranty

27. Plaintiff incorporates by reference each and every allegation set forth in the preceding and succeeding paragraphs as though herein fully restated and re-alleged.

28. Defendants had reason to know the purpose of the subject vehicle at the time of sale of the subject vehicle. The sale of the subject vehicle was accompanied by an implied warranty of fitness.

29. The sale of the subject vehicle was accompanied by an implied warranty that the subject vehicle was merchantable pursuant to Civil Code section 1792.

30. The subject vehicle was not fit for the ordinary purpose for which such goods are used because it was equipped with the defective parts and systems as set forth herein.

31. The subject vehicle did not measure up to the promises or facts stated on the container or label because it was equipped with the defective parts and systems as set forth herein.

32. The subject vehicle was not of the same quality as those generally acceptable in the trade because it was equipped with the defective parts and systems as set forth herein.

33. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the Vehicle and has exercised the right to cancel the purchase. By serving this Complaint, Plaintiff does so again.

34. Plaintiff is entitled to replacement or reimbursement pursuant to Civil Code section 1794 *et seq.*

35. Plaintiff is entitled to rescission of the contract pursuant to Civil Code section 1794 *et seq.* and Commercial Code section 2711.

36. Plaintiff is entitled to any “cover” damages under Commercial Code sections 2711, 2712 and Civil Code section 1794 *et seq.*

37. Plaintiff is entitled to recover all incidental and consequential damages pursuant to Civil Code section 1794 *et seq.* and Commercial Code sections 2711, 2712 and 2713 *et seq.*

1 38. Plaintiff is entitled under Song-Beverly to recover as part of the judgment, a sum
2 equal to the aggregate amount of costs and expenses, including attorneys' fees, reasonably incurred
3 in connection with the commencement and prosecution of this action.

4 **THIRD CAUSE OF ACTION**

5 **Violation of the Song-Beverly Consumer Warranty Act –**

6 **Civil Code §1793.2(b)**

7 39. Plaintiff incorporates by reference each and every allegation set forth in the preceding
8 and succeeding paragraphs as though herein fully restated and re-alleged.

9 40. Pursuant to Civil Code section 1793.2(a), a manufacturer that sells consumer goods
10 in California, for which it has made an express warranty, shall maintain service and repair facilities
11 or designate and authorized independent service and repair facilities to carry out the terms of those
12 warranties.

13 41. Civil Code section 1793.2(b) states that goods shall be serviced or repaired so as to
14 conform to the applicable warranties within 30 days.

15 42. The sale of the subject vehicle was accompanied by express warranties, including a
16 warranty guaranteeing that the subject vehicle was safe to drive and not equipped with defective
17 parts and systems including the defective parts and systems alleged herein.

18 43. Plaintiff delivered the subject vehicle to Defendant's authorized repair facilities on
19 multiple occasions. The subject vehicle was delivered for repairs of the defects alleged herein which
20 amount to nonconformities to the express warranties that accompanied the sale of the subject vehicle.

21 44. Since delivery of the subject vehicle to Defendant's authorized repair facilities, over
22 thirty days have past and Defendant has failed to tender the subject vehicle back to Plaintiff in
23 conformance with its warranties.

24 45. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the Vehicle
25 and has exercised the right to cancel the purchase. By serving this Complaint, Plaintiff does so again.

26 46. Plaintiff is entitled to replacement or reimbursement pursuant to Civil Code section
27 1794 *et seq.*
28

47. Plaintiff is entitled to rescission of the contract pursuant to Civil Code section 1794 *et seq.* and Commercial Code section 2711.

48. Plaintiff is entitled to any “cover” damages under Commercial Code sections 2711, 2712 and Civil Code section 1794 *et seq.*

49. Plaintiff is entitled to recover all incidental and consequential damages pursuant to Civil Code section 1794 *et seq.* and Commercial Code sections 2711, 2712 and 2713 *et seq.*

50. Plaintiff is entitled under Song-Beverly to recover as part of the judgment, a sum equal to the aggregate amount of costs and expenses, including attorneys' fees, reasonably incurred in connection with the commencement and prosecution of this action.

51. Plaintiff is entitled, in addition to the amounts recovered, to a civil penalty of up to two times the amount of actual damages in that Defendants have willfully failed to comply with their responsibilities under Song-Beverly.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For general, special and actual damages according to proof at trial;
2. For rescission of the purchase contract and restitution of all monies expended;
3. For diminution in value;
4. For incidental and consequential damages according to proof at trial;
5. For a civil penalty in the amount of two times Plaintiff's actual damages;
6. For pre-judgment interest at the legal rate;
7. For reasonable attorneys' fees and costs of suit;
8. For such other and further relief as the Court deems just and proper under the circumstances.

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all causes of action asserted herein.

Date: June 15, 2020

JOURNEY LAW GROUP, INC.

By:

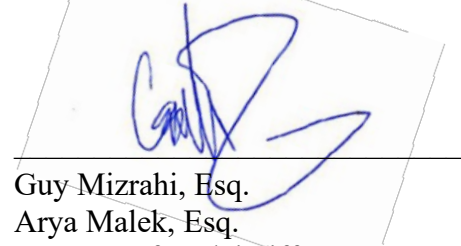

Guy Mizrahi, Esq.
Arya Malek, Esq.
Attorneys for Plaintiff,
CHRISTIAN LIFE CENTER, INC.

EXHIBIT “B”

Kevin J. Tully, Esq., (SBN 079559)
LAW OFFICES OF KEVIN J. TULLY
411 Borel Avenue, Suite 500
San Mateo, CA 94402
Tel: (650) 377-0708
Fax: (650) 377-0606
Email: kevin@tullylaw.net

Attorneys for Defendant
FORD MOTOR COMPANY

FILED
SUPERIOR COURT

2020 AUG 13 PM 3:39

BRANDON E. KLEY, CLERK

By *[Signature]*
DEPUTY

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN JOAQUIN**

CHRISTIAN LIFE CENTER, INC.

Plaintiff,

v.

FORD MOTOR COMPANY; BIG VALLEY
FORD, INC. dba BIG VALLEY FORD LINCOLN;
and DOES 1-20, inclusive,

Defendants.

Case No: STK-CV-UBC-2020-0004861

**DEFENDANT FORD MOTOR COMPANY'S
ANSWER TO COMPLAINT FOR
DAMAGES**

COMES NOW defendant FORD MOTOR COMPANY answering plaintiff's unverified complaint on file herein, admits, denies, and alleges as follows:

This answering defendant denies each and every, all and singular, generally and specifically, the allegations in said complaint and each cause of action therein contained.

Further, answering said complaint and each cause of action therein contained, this answering defendant denies that plaintiff has sustained damage in any sum or sums, or otherwise, or at all due to any act or omission on the part of this answering defendant.

AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE, it is alleged that the complaint and each cause of action therein fails to state facts sufficient to constitute a cause of action as against this answering defendant.

AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE, it is alleged that the complaint and each cause of action therein fails to state facts sufficient to constitute a cause of action for punitive damages as against this answering defendant.

FORD ANSWER TO COMPLAINT

FILE BY FAX

1 AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE,
2 it is alleged that each purported cause of action appears to be barred by the applicable statute of
3 limitations, namely Sections 337, 337.1, 337.15, 338, 339 and/or 340 of the California Code of Civil
4 Procedure and/or Section 2725 of the California Comm Code, and *Krieger v. Nick Alexander Imports*
5 (1991) 234 Cal. App 3d 205, as well as UCC Sec. 2725.

6 AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE,
7 it is alleged that the complaint and each cause of action therein fails to state a cause of action under Civil
8 Code Section 1790, et seq., otherwise known as the "Song-Beverly Consumer Warranty Act", which
9 pertains, *inter alia*, to warranties accompanying new consumer products and/or new motor vehicles.

10 AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE,
11 it is alleged that plaintiff was guilty of negligence in and about the matters and things complained of in
12 the complaint, and that such negligence on the part of plaintiff contributed directly and proximately to
13 the happening of the accident, and to the damages, if any, sustained by plaintiff. Further, it is prayed
14 that if plaintiff recovers a verdict in this case, that the same shall be reduced proportionately by the
15 percentage of negligence attributed to the plaintiff as a proximate cause of the incident.

16 AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE,
17 it is alleged that the injuries sustained by plaintiff, if any, were either wholly or in part negligently caused
18 by persons, firms, corporations or entities other than defendant, and that said negligence is either imputed
19 to plaintiff by reason of the relationship of said parties to plaintiff and/or said negligence comparatively
20 reduces the percentage of negligence, if any, by this answering defendant.

21 AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE,
22 it is alleged that plaintiff failed, subsequent to the occurrence described in the complaint, to properly
23 mitigate damages and are thereby precluded from recovering those damages which could have reasonably
24 been avoided by the exercise of due care on the part of plaintiff.

25 AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE,
26 it is alleged that no timely or reasonable notice was given to defendant of the alleged breach of warranty.

27 AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE,
28 it is alleged that plaintiff, and/or persons, firms, corporations or entities other than defendant, misused

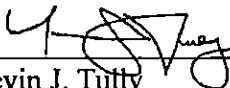
1 and abused said product and/or failed to use said product for the purpose for which it was intended, which
2 misuse and abuse is imputed to plaintiff, thereby barring any recovery by plaintiff herein.

3 AS AND FOR A SEPARATE AND DISTINCT ANSWER AND AFFIRMATIVE DEFENSE,
4 it is alleged that any claim for incidental and/or consequential damages are effectively precluded by the
5 reasonable disclaimer set forth in the express warranty and given by defendant FORD MOTOR
6 COMPANY as to such matters at the time of purchase.

7 WHEREFORE, defendant FORD MOTOR COMPANY prays that plaintiff takes nothing by the
8 complaint on file herein, that defendant be hence dismissed with costs, and for such other and further
9 relief as the court may deem just and proper.

10
11 DATED: August 3, 2020

LAW OFFICES OF KEVIN J. TULLY

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14 Kevin J. Tully
15 Attorneys for Defendant
16 FORD MOTOR COMPANY
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PROOF OF SERVICE

Christian Life Center v. Ford
San Joaquin County Superior Court
Case No. STK-CV-UBC-2020-0004861

I am a citizen of the United States and employed in the County of San Mateo, State of California, where this service occurs. I am over the age of 18 years and not a party to the within action. I am an employee of the Law Offices of Kevin J. Tully; my business address is 411 Borel Avenue, Suite 500, San Mateo, California 94402. I am readily familiar with my employer's normal business practice for collection and processing of correspondence.

On the date set forth below, following ordinary business practice, I served the foregoing document(s) described as follows:

DEFENDANT FORD MOTOR COMPANY'S ANSWER TO PLAINTIFF'S COMPLAINT

By MAIL on the following party(ies) in said action, in accordance with Code of Civil Procedure Section 1013(a), by placing a true copy thereof in a sealed envelope, first-class postage fully prepaid, in a designated area for outgoing mail, addressed as set forth below. In the ordinary course of business in the firm of Law Offices of Kevin J. Tully, mail placed in that location is deposited that same day in a U.S. mailbox in the City and County of San Mateo.

By PERSONALLY DELIVERING a true and correct copy thereof, in accordance with Code of Civil Procedure Section 1011, to the person(s) and at the address(es) set forth below.

X By ELECTRONIC MAIL on the following party(ies) in said action, in accordance with Code of Civil Procedure Section 1013(a), by serving the enclosed via e-mail transmission to each of the parties listed on the official service list with an email address.

By FACSIMILE TRANSMISSION in accordance with Code of Civil Procedure section 1013(e) to the following party(ies) at the facsimile number(s) indicated. This transmission was reported as complete and without error, and a copy of the transmission report which was issued by the transmitting facsimile machine is attached to the original Proof.

Addressed to:

Guy Mizrahi
Journey Law Group, Inc.
guy@journeylawgroup.com

Attorney for Plaintiff
CHRISTIAN LIFE CENTER, INC.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Mateo, California, on August 3, 2020.

Reanna Sharma
Reanna Sharma

EXHIBIT “C”

FILED
SUPERIOR COURT-SAN JOAQUIN

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

☐ LODI BRANCH
315 W. ELM ST.
LODI, CA 95240

☐ MANTECA BRANCH
315 E. CENTER ST.
MANTECA, CA 95336

☒ STOCKTON BRANCH
180 E WEBER AVE, STE 200
STOCKTON, CA 95203

☐ TRACY BRANCH
475 E. TENTH ST.
TRACY, CA 95376

Christian Life Center, Inc.

Plaintiff(s) vs.

Ford Motor Company

Defendant(s).

(Abbreviated Title)

CASE NUMBER

STK-CV-UBC-2020-000486

AMENDMENT TO COMPLAINT

FICTITIOUS NAME (No order required)

Upon filing the complaint in this case, plaintiff(s) being ignorant of the true name of a defendant, designated such defendant in the complaint by the fictitious name of Doe 1 ; Doe 2

and having discovered the defendant's true name to be

Roush Industries, Inc. ; Roush Performance, Inc.

plaintiff(s)

amend(s) the complaint by inserting such true name instead of such fictitious name wherever it appears in the complaint.

Jessica R. Underwood

Attorney(s) for Plaintiff(s)

INCORRECT NAME (Requires order thereon)

Plaintiff(s) having designated a defendant in the complaint by the incorrect name of

and having discovered the true name of defendant to be

amends the complaint by inserting such true name instead of such incorrect name wherever it appears in the complaint.

Attorney(s) for Plaintiff(s)

ORDER

Proper cause appearing, the above amendment to the complaint is allowed.

Dated _____

Judge

EXHIBIT “D”

10B
4/18

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: 306481 NAME: Jessica R. Underwood FIRM NAME: Wirtz Law APC STREET ADDRESS: 4370 La Jolla Village Drive, Suite 800 CITY: San Diego STATE: CA ZIP CODE: 92122 TELEPHONE NO.: 8582595009 FAX NO.: E-MAIL ADDRESS: eservice@wirtzlaw.com ATTORNEY FOR (Name): Plaintiff Christian Life Center, Inc.	FOR COURT USE ONLY FILED SUPERIOR COURT-STOCKTON 2022 JAN 28 AM 10:17 BRANDON E. RILEY, CLERK BY <u>meandhelmer</u> DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN STREET ADDRESS: 180 E Weber Ave. MAILING ADDRESS: 180 E Weber Ave. CITY AND ZIP CODE: Stockton, 95202 BRANCH NAME: Stockton Courthouse	
Plaintiff/Petitioner: Christian Life Center, Inc. Defendant/Respondent: Ford Motor Company, et al.	
REQUEST FOR DISMISSAL	
CASE NUMBER: STK-CV-UBC-2020-0004861	
A conformed copy will not be returned by the clerk unless a method of return is provided with the document.	
This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)	

1. TO THE CLERK: Please dismiss this action as follows:
- a. (1) ☐ With prejudice (2) ☒ Without prejudice
- b. (1) ☐ Complaint (2) ☐ Petition
- (3) ☐ Cross-complaint filed by (name): on (date):
- (4) ☐ Cross-complaint filed by (name): on (date):
- (5) ☐ Entire action of all parties and all causes of action
- (6) ☒ Other (specify):* Big Valley Ford, Inc. d/b/a Big Valley Ford Lincoln, a California Corporation
2. (Complete in all cases except family law cases.)
 The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed)

Date: 1/27/2022

Jessica R. Underwood

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Jessica R Underwood
 (SIGNATURE)

Attorney or party without attorney for:

☒ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

** If a cross-complaint – or Response (Family Law) seeking affirmative relief – is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

Brandon E. Riley
 (SIGNATURE)

Attorney or party without attorney for:

☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross Complainant

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):
5. ☒ Dismissal entered on (date): JAN 28 2022 as to only (name): see above
6. ☐ Dismissal not entered as requested for the following reasons (specify):

7. a. ☒ Attorney or party without attorney notified on (date): JAN 31 2022

b. ☐ Attorney or party without attorney not notified. Filing party failed to provide
☐ a copy to be conformed ☐ means to return conformed copy

BRANDON E. RILEY

Date: JAN 31 2022

Clerk, by meandhelmer, Deputy

Page 1 of 2

Plaintiff/Petitioner: Christian Life Center, Inc.
 Defendant/Respondent: Ford Motor Company, et al.

CASE NUMBER:
 STK-CV-UBC-2020-0004861

COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS

If a party whose court fees and costs were initially waived has recovered or will recover \$10,000 or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other means, the court has a statutory lien on that recovery. The court may refuse to dismiss the case until the lien is satisfied. (Gov. Code, § 68637.)

Declaration Concerning Waived Court Fees

1. The court waived court fees and costs in this action for *(name)*:
2. The person named in item 1 is *(check one below)*:
 - a. ☐ not recovering anything of value by this action.
 - b. ☐ recovering less than \$10,000 in value by this action.
 - c. ☐ recovering \$10,000 or more in value by this action. *(If item 2c is checked, item 3 must be completed.)*
3. ☐ All court fees and court costs that were waived in this action have been paid to the court *(check one)*: Yes No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

 (TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY MAKING DECLARATION)

 (SIGNATURE)

EXHIBIT “E”

WIRTZ LAW APC

Richard M. Wirtz (SBN 137812)
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JOURNEY LAW GROUP, INC.

Guy Mizrahi, Esq. (SBN 220930)
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Los Angeles, CA 90024
Telephone: 424.206.4303
Facsimile: 424.220.7388

Attorneys for Plaintiff CHRISTIAN LIFE CENTER, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN – STOCKTON COURTHOUSE

CHRISTIAN LIFE CENTER, INC., an
individual,

Plaintiffs,

v.

FORD MOTOR COMPANY, a Delaware
Corporation; ROUSH INDUSTRIES, INC., A
CORPORATION; ROUSH PERFORMANCE,
INC. AKA KOVINGTON PERFORMANCE
HOLDINGS, INC.; A CORPORATION and
DOES 3through 20, inclusive,

Defendants.

Case No. STK-CV-UBC-2020-0004861

Hon.
Dept.

FIRST AMENDED COMPLAINT

1. SONG-BEVERLY CONSUMER
WARRANTY ACT – BREACH OF
EXPRESS WARRANTY;
2. SONG-BEVERLY CONSUMER
WARRANTY ACT – BREACH OF
IMPLIED WARRANTY;
3. SONG-BEVERLY CONSUMER
WARRANTY ACT – CIVIL CODE
§1793.2(b)

1
2 Plaintiff, CHRISTIAN LIFE CENTER, INC., alleges as follows against Defendants FORD
3 MOTOR COMPANY, BIG VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN,
4 ROUSH INDUSTRIES, INC., ROUSH PERFORMANCE, INC. AKA KOVINGTON
5 PERFORMANCE HOLDINGS, INC. and Does 3 through 20 inclusive, on information and belief
6 formed after an inquiry reasonable under the circumstances:

7 **GENERAL ALLEGATIONS**

8 1. Plaintiff CHRISTIAN LIFE CENTER, INC. is an individual residing in the County
9 of San Joaquin, State of California.

10 2. Defendant, FORD MOTOR COMPANY ("Manufacturer"), is a Delaware Limited
11 Liability Company doing business in the county of San Joaquin, State of California, and, at all times
12 relevant herein, was/is engaged in the manufacture, sale, distribution, and/or importing of Ford motor
13 vehicles and related equipment.

14 3. Defendant, BIG VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN
15 ("Service Facility"), is and was at all relevant times an automobile dealership business. BIG
16 VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN is and was an entity registered to do
17 business in the County of San Joaquin, State of California.

18 4. Defendant ROUSH INDUSTRIES, INC. is a Michigan Corporation doing
19 business in the county of San Joaquin, State of California, and at all times relevant herein,
20 was/is engaged in the manufacture of vehicle components, and in the distribution of Ford
21 vehicles and related equipment.

22 5. Defendant ROUSH PERFORMANCE, INC. AKA KOVINGTON
23 PERFORMANCE HOLDINGS, INC. is a Michigan Corporation doing business in in the
24 county of San Joaquin, State of California, and at all times relevant herein, was/is engaged in
25 the manufacture of vehicle components, and in the distribution of Ford vehicles and related
26 equipment.

27 6. This action arises out of warranty obligations of FORD MOTOR COMPANY and
28 ROUSH PERFORMANCE, INC. AKA KOVINGTON PERFORMANCE HOLDINGS, INC.

1 and/or **ROUSH INDUSTRIES, INC.** for a vehicle purchased by the Plaintiff and for which FORD
2 MOTOR COMPANY and **ROUSH PERFORMANCE, INC. AKA KOVINGTON**
3 **PERFORMANCE HOLDINGS, INC. and/or ROUSH INDUSTRIES, INC.** issued a written
4 warranty.

5 7. Plaintiff does not know the true names and capacities, whether corporate, partnership,
6 associate, individual or otherwise of **Defendants** issued herein as Does 3 through 20, inclusive, under
7 the provisions of section 474 of the Code of Civil Procedure. Defendants Does 3 through 20,
8 inclusive, are in some manner responsible for the acts, occurrences and transactions set forth herein,
9 and are legally liable to Plaintiff. Plaintiff will seek leave to amend this Complaint to set forth the
10 true names and capacities of the fictitiously named **Defendants** together with appropriate charging
11 allegations when ascertained.

12 8. All acts of corporate employees as alleged were authorized or ratified by an officer,
13 director or managing agent of the corporate employer.

14 9. Each Defendant whether actually or fictitiously named herein, was the principal,
15 agent (actual or ostensible), co-conspirator, or employee of each other Defendant and in acting as
16 such principal or within the course and scope of such employment, agency, or conspiracy, took some
17 part in the acts and omissions hereinafter set forth by reason of which each Defendant is liable to
18 Plaintiff for the relief prayed for herein.

19 10. On or about March 13, 2019, Plaintiff purchased a new 2019 Ford F-150, vehicle
20 identification number 1FTEW1E56KFA22874 ("Vehicle"). Express warranties accompanied the
21 purchase of the Vehicle to Plaintiff by which FORD MOTOR COMPANY and **ROUSH**
22 **PERFORMANCE, INC. AKA KOVINGTON PERFORMANCE HOLDINGS, INC. and/or**
23 **ROUSH INDUSTRIES, INC.** undertook to preserve or maintain the utility or performance of
24 Plaintiff's vehicle or provide compensation if there was a failure in such utility or performance.

25 11. The Vehicle was delivered to Plaintiff with serious defects and nonconformities to
26 warranty and developed other serious defects and nonconformities to warranty including, but not
27 limited to the transmission and related systems, transmission has harsh shift, long lag in transmission,
28 transmission kicks forward, rpms will go up but no forward movement, transmission slams into gear,

1 valve body, lag in between shift, transmission will jerk, loud engagement, no power, and other
2 defects.

3 **FIRST CAUSE OF ACTION**

4 **Violation of the Song-Beverly Consumer Warranty Act –**

5 **Breach of Express Warranty**

6 12. Plaintiff incorporates by reference each and every allegation set forth in the
7 preceding and succeeding paragraphs as though herein fully restated and re-alleged.

8 13. Pursuant to the Song-Beverly Consumer Warranty Act (hereinafter “Song-Beverly”),
9 Civil Code §1790 *et seq.*, the Vehicle constitutes “consumer goods” used primarily for family or
10 household purposes and Plaintiff has used the Vehicle primarily for those purposes.

11 14. Plaintiff is a “buyer” of consumer goods under Song-Beverly.

12 15. Defendant FORD MOTOR COMPANY is a “manufacturer” or “distributor” under
13 Song-Beverly.

14 16. Defendant **ROUSH PERFORMANCE, INC. AKA KOVINGTON**
15 **PERFORMANCE HOLDINGS, INC.** is a “manufacturer” or distributor” under Song-
16 Beverly.

17 17. Defendant **ROUSH INDUSTRIES, INC.** is a “manufacturer” or distributor”
18 under Song-Beverly.

19 18. Defendant **BIG VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN** is a
20 **FORD MOTOR COMPANY and ROUSH PERFORMANCE, INC. AKA KOVINGTON**
21 **PERFORMANCE HOLDINGS, INC. and/or ROUSH INDUSTRIES, INC.** authorized retail
22 and “service facility” under Song-Beverly.

23 19. The foregoing defects and nonconformities to warranty manifested themselves within
24 the applicable express warranty period. The nonconformities substantially impair the use, value
25 and/or safety of the Vehicle.

26 20. Plaintiff delivered the Vehicle to Manufacturer **and/or Distributors’** authorized
27 repair facilities for repair of the nonconformities.

28 21. **Defendants** wrongfully denied warranty coverage for certain nonconformities.

1 22. **Defendants** were unable to conform Plaintiff's Vehicle to the applicable express
2 warranties after a reasonable number of attempts.

3 23. **Defendants** were unable to conform Plaintiff's Vehicle to the applicable express
4 warranties after a reasonable amount of time as set forth in Song-Beverly, including but not limited
5 to Civil Code § 1793.2(b).

6 24. Notwithstanding Plaintiff's entitlement, **Defendants** have failed to either promptly
7 replace the new motor vehicle or promptly make restitution in accordance with the Song-Beverly
8 Consumer Warranty Act.

9 25. By failure of **Defendants** to remedy the defects as alleged above, or to issue a refund
10 or replacement, **Defendants** are in breach of their obligations under Song-Beverly.

11 26. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the Vehicle
12 and has exercised the right to cancel the purchase. By serving this Complaint, Plaintiff does so again.

13 27. Under Song-Beverly, Plaintiff is entitled to reimbursement of the price paid for the
14 Vehicle less that amount directly attributable to use by the Plaintiff prior to discovery of the
15 nonconformities.

16 28. Plaintiff is entitled to all incidental, consequential and general damages resulting from
17 Defendants' failure to comply with their obligations under Song-Beverly.

18 29. Plaintiff is entitled under Song-Beverly to recover as part of the judgment, a sum
19 equal to the aggregate amount of costs and expenses, including attorneys' fees, reasonably incurred
20 in connection with the commencement and prosecution of this action.

21 30. Plaintiff is entitled, in addition to the amounts recovered, to a civil penalty of up to
22 two times the amount of actual damages in that Defendants have willfully failed to comply with their
23 responsibilities under Song-Beverly.

24 **SECOND CAUSE OF ACTION**

25 **Violation of the Song-Beverly Consumer Warranty Act –**

26 **Breach of Implied Warranty**

27 31. Plaintiff incorporates by reference each and every allegation set forth in the preceding
28 and succeeding paragraphs as though herein fully restated and re-alleged.

1 32. **Defendants** had reason to know the purpose of the subject vehicle at the time of sale
2 of the subject vehicle. The sale of the subject vehicle was accompanied by an implied warranty of
3 fitness.

4 33. The sale of the subject vehicle was accompanied by an implied warranty that the
5 subject vehicle was merchantable pursuant to Civil Code section 1792.

6 34. The subject vehicle was not fit for the ordinary purpose for which such goods are used
7 because it was equipped with the defective parts and systems as set forth herein.

8 35. The subject vehicle did not measure up to the promises or facts stated on the container
9 or label because it was equipped with the defective parts and systems as set forth herein.

10 36. The subject vehicle was not of the same quality as those generally acceptable in the
11 trade because it was equipped with the defective parts and systems as set forth herein.

12 37. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the Vehicle
13 and has exercised the right to cancel the purchase. By serving this Complaint, Plaintiff does so again.

14 38. Plaintiff is entitled to replacement or reimbursement pursuant to Civil Code section
15 1794 *et seq.*

16 39. Plaintiff is entitled to rescission of the contract pursuant to Civil Code section 1794
17 *et seq.* and Commercial Code section 2711.

18 40. Plaintiff is entitled to any "cover" damages under Commercial Code sections 2711,
19 2712 and Civil Code section 1794 *et seq.*

20 41. Plaintiff is entitled to recover all incidental and consequential damages pursuant to
21 Civil Code section 1794 *et seq.* and Commercial Code sections 2711, 2712 and 2713 *et seq.*

22 42. Plaintiff is entitled under Song-Beverly to recover as part of the judgment, a sum
23 equal to the aggregate amount of costs and expenses, including attorneys' fees, reasonably incurred
24 in connection with the commencement and prosecution of this action.

25 ///

26 ///

27 ///

28 ///

THIRD CAUSE OF ACTION

Violation of the Song-Beverly Consumer Warranty Act –

Civil Code §1793.2(b)

43. Plaintiff incorporates by reference each and every allegation set forth in the preceding and succeeding paragraphs as though herein fully restated and re-alleged.

44. Pursuant to Civil Code section 1793.2(a), a manufacturer that sells consumer goods in California, for which it has made an express warranty, shall maintain service and repair facilities or designate and authorized independent service and repair facilities to carry out the terms of those warranties.

45. Civil Code section 1793.2(b) states that goods shall be serviced or repaired so as to conform to the applicable warranties within 30 days.

46. The sale of the subject vehicle was accompanied by express warranties, including a warranty guaranteeing that the subject vehicle was safe to drive and not equipped with defective parts and systems including the defective parts and systems alleged herein.

47. Plaintiff delivered the subject vehicle to **Defendants'** authorized repair facilities on multiple occasions. The subject vehicle was delivered for repairs of the defects alleged herein which amount to nonconformities to the express warranties that accompanied the sale of the subject vehicle.

48. Since delivery of the subject vehicle to **Defendants'** authorized repair facilities, over thirty days have past and **Defendants have** failed to tender the subject vehicle back to Plaintiff in conformance with its warranties.

49. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the Vehicle and has exercised the right to cancel the purchase. By serving this Complaint, Plaintiff does so again.

50. Plaintiff is entitled to replacement or reimbursement pursuant to Civil Code section 1794 *et seq.*

51. Plaintiff is entitled to rescission of the contract pursuant to Civil Code section 1794 *et seq.* and Commercial Code section 2711.

52. Plaintiff is entitled to any "cover" damages under Commercial Code sections 2711, 2712 and Civil Code section 1794 *et seq.*

53. Plaintiff is entitled to recover all incidental and consequential damages pursuant to Civil Code section 1794 *et seq.* and Commercial Code sections 2711, 2712 and 2713 *et seq.*

54. Plaintiff is entitled under Song-Beverly to recover as part of the judgment, a sum equal to the aggregate amount of costs and expenses, including attorneys' fees, reasonably incurred in connection with the commencement and prosecution of this action.

55. Plaintiff is entitled, in addition to the amounts recovered, to a civil penalty of up to two times the amount of actual damages in that Defendants have willfully failed to comply with their responsibilities under Song-Beverly.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For general, special and actual damages according to proof at trial;
2. For rescission of the purchase contract and restitution of all monies expended;
3. For diminution in value;
4. For incidental and consequential damages according to proof at trial;
5. For a civil penalty in the amount of two times Plaintiff's actual damages;
6. For pre-judgment interest at the legal rate;
7. For reasonable attorneys' fees and costs of suit;
8. For such other and further relief as the Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all causes of action asserted herein.

Date: February 9, 2022

WIRTZ LAW APC

By:

Ridhard M. Wirtz
Jessica R. Underwood
Attorneys for Plaintiff,
CHRISTIAN LIFE CENTER, INC.

EXHIBIT “F”



04/15/2022

CT Log Number 541414994

TO: Jay R Jolliffe
Roush Industries, Inc.
12445 LEVAN RD
LIVONIA, MI 48150-1405

RE: Process Served in California

FOR: Roush Industries, Inc. (Domestic State: MI)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: CHRISTIAN LIFE CENTER, INC., an individual // To: Roush Industries, Inc.

DOCUMENT(S) SERVED: --

COURT/AGENCY: None Specified
Case # STKCVUBC20200004861

NATURE OF ACTION: Product Liability Litigation - Lemon Law

ON WHOM PROCESS WAS SERVED: C T Corporation System, GLENDALE, CA

DATE AND HOUR OF SERVICE: By Process Server on 04/15/2022 at 01:45

JURISDICTION SERVED : California

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: SOP Papers with Transmittal, via UPS Next Day Air , 1ZX212780124584908

REGISTERED AGENT ADDRESS: C T Corporation System
330 N BRAND BLVD
STE 700
GLENDALE, CA 91203
866-539-8692
CorporationTeam@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

PROCESS SERVER DELIVERY DETAILS

Date:

Fri, Apr 15, 2022

Server Name:

Jimmy Lizama

Entity Served	ROUSH INDUSTRIES, INC.
Case Number	STK-CV-UBC-2020-0004861
Jurisdiction	CA

Inserts		



WIRTZ LAW APC

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Attorneys for Plaintiff CHRISTIAN LIFE CENTER, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN – STOCKTON COURTHOUSE

CHRISTIAN LIFE CENTER, INC., an
individual,

Plaintiffs,

v.

FORD MOTOR COMPANY, a Delaware
Corporation; ~~ROUGH INDUSTRIES, INC., A~~
CORPORATION; ROUSH PERFORMANCE,
INC. AKA KOVINGTON PERFORMANCE
HOLDINGS, INC.; A CORPORATION and
DOES 3 through 20, inclusive,

Defendants.

Case No. STK-CV-UBC-2020-0004861

Hon.
Dept.

FIRST AMENDED COMPLAINT

- 1. SONG-BEVERLY CONSUMER WARRANTY ACT – BREACH OF EXPRESS WARRANTY;**
- 2. SONG-BEVERLY CONSUMER WARRANTY ACT – BREACH OF IMPLIED WARRANTY;**
- 3. SONG-BEVERLY CONSUMER WARRANTY ACT – CIVIL CODE §1793.2(b)**

1
2 Plaintiff, CHRISTIAN LIFE CENTER, INC., alleges as follows against Defendants FORD
3 MOTOR COMPANY, BIG VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN,
4 ROUSH INDUSTRIES, INC., ROUSH PERFORMANCE, INC. AKA KOVINGTON
5 PERFORMANCE HOLDINGS, INC. and Does 3 through 20 inclusive, on information and belief
6 formed after an inquiry reasonable under the circumstances:

7 **GENERAL ALLEGATIONS**

8 1. Plaintiff CHRISTIAN LIFE CENTER, INC. is an individual residing in the County
9 of San Joaquin, State of California.

10 2. Defendant, FORD MOTOR COMPANY ("Manufacturer"), is a Delaware Limited
11 Liability Company doing business in the county of San Joaquin, State of California, and, at all times
12 relevant herein, was/is engaged in the manufacture, sale, distribution, and/or importing of Ford motor
13 vehicles and related equipment.

14 3. Defendant, BIG VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN
15 ("Service Facility"), is and was at all relevant times an automobile dealership business. BIG
16 VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN is and was an entity registered to do
17 business in the County of San Joaquin, State of California.

18 4. Defendant ROUSH INDUSTRIES, INC. is a Michigan Corporation doing
19 business in the county of San Joaquin, State of California, and at all times relevant herein,
20 was/is engaged in the manufacture of vehicle components, and in the distribution of Ford
21 vehicles and related equipment.

22 5. Defendant ROUSH PERFORMANCE, INC. AKA KOVINGTON
23 PERFORMANCE HOLDINGS, INC. is a Michigan Corporation doing business in in the
24 county of San Joaquin, State of California, and at all times relevant herein, was/is engaged in
25 the manufacture of vehicle components, and in the distribution of Ford vehicles and related
26 equipment.

27 6. This action arises out of warranty obligations of FORD MOTOR COMPANY and
28 ROUSH PERFORMANCE, INC. AKA KOVINGTON PERFORMANCE HOLDINGS, INC.

1 and/or **ROUSH INDUSTRIES, INC.** for a vehicle purchased by the Plaintiff and for which FORD
2 MOTOR COMPANY and **ROUSH PERFORMANCE, INC. AKA KOVINGTON**
3 **PERFORMANCE HOLDINGS, INC. and/or ROUSH INDUSTRIES, INC.** issued a written
4 warranty.

5 7. Plaintiff does not know the true names and capacities, whether corporate, partnership,
6 associate, individual or otherwise of **Defendants** issued herein as Does 3 through 20, inclusive, under
7 the provisions of section 474 of the Code of Civil Procedure. Defendants Does 3 through 20,
8 inclusive, are in some manner responsible for the acts, occurrences and transactions set forth herein,
9 and are legally liable to Plaintiff. Plaintiff will seek leave to amend this Complaint to set forth the
10 true names and capacities of the fictitiously named **Defendants** together with appropriate charging
11 allegations when ascertained.

12 8. All acts of corporate employees as alleged were authorized or ratified by an officer,
13 director or managing agent of the corporate employer.

14 9. Each Defendant whether actually or fictitiously named herein, was the principal,
15 agent (actual or ostensible), co-conspirator, or employee of each other Defendant and in acting as
16 such principal or within the course and scope of such employment, agency, or conspiracy, took some
17 part in the acts and omissions hereinafter set forth by reason of which each Defendant is liable to
18 Plaintiff for the relief prayed for herein.

19 10. On or about March 13, 2019, Plaintiff purchased a new 2019 Ford F-150, vehicle
20 identification number 1FTEW1E56KFA22874 ("Vehicle"). Express warranties accompanied the
21 purchase of the Vehicle to Plaintiff by which FORD MOTOR COMPANY and **ROUSH**
22 **PERFORMANCE, INC. AKA KOVINGTON PERFORMANCE HOLDINGS, INC. and/or**
23 **ROUSH INDUSTRIES, INC.** undertook to preserve or maintain the utility or performance of
24 Plaintiff's vehicle or provide compensation if there was a failure in such utility or performance.

25 11. The Vehicle was delivered to Plaintiff with serious defects and nonconformities to
26 warranty and developed other serious defects and nonconformities to warranty including, but not
27 limited to the transmission and related systems, transmission has harsh shift, long lag in transmission,
28 transmission kicks forward, rpms will go up but no forward movement, transmission slams into gear,

1 valve body, lag in between shift, transmission will jerk, loud engagement, no power, and other
2 defects.

3 **FIRST CAUSE OF ACTION**

4 **Violation of the Song-Beverly Consumer Warranty Act –**

5 **Breach of Express Warranty**

6 12. Plaintiff incorporates by reference each and every allegation set forth in the
7 preceding and succeeding paragraphs as though herein fully restated and re-alleged.

8 13. Pursuant to the Song-Beverly Consumer Warranty Act (hereinafter “Song-Beverly”),
9 Civil Code §1790 *et seq.*, the Vehicle constitutes “consumer goods” used primarily for family or
10 household purposes and Plaintiff has used the Vehicle primarily for those purposes.

11 14. Plaintiff is a “buyer” of consumer goods under Song-Beverly.

12 15. Defendant FORD MOTOR COMPANY is a “manufacturer” or “distributor” under
13 Song-Beverly.

14 16. Defendant ROUSH PERFORMANCE, INC. AKA KOVINGTON
15 PERFORMANCE HOLDINGS, INC. is a “manufacturer” or distributor” under Song-
16 Beverly.

17 17. Defendant ROUSH INDUSTRIES, INC. is a “manufacturer” or distributor”
18 under Song-Beverly.

19 18. Defendant BIG VALLEY FORD, INC. d/b/a BIG VALLEY FORD LINCOLN is a
20 FORD MOTOR COMPANY and ROUSH PERFORMANCE, INC. AKA KOVINGTON
21 PERFORMANCE HOLDINGS, INC. and/or ROUSH INDUSTRIES, INC. authorized retail
22 and “service facility” under Song-Beverly.

23 19. The foregoing defects and nonconformities to warranty manifested themselves within
24 the applicable express warranty period. The nonconformities substantially impair the use, value
25 and/or safety of the Vehicle.

26 20. Plaintiff delivered the Vehicle to Manufacturer and/or Distributors’ authorized
27 repair facilities for repair of the nonconformities.

28 21. Defendants wrongfully denied warranty coverage for certain nonconformities.

1 22. **Defendants** were unable to conform Plaintiff's Vehicle to the applicable express
2 warranties after a reasonable number of attempts.

3 23. **Defendants** were unable to conform Plaintiff's Vehicle to the applicable express
4 warranties after a reasonable amount of time as set forth in Song-Beverly, including but not limited
5 to Civil Code § 1793.2(b).

6 24. Notwithstanding Plaintiff's entitlement, **Defendants** have failed to either promptly
7 replace the new motor vehicle or promptly make restitution in accordance with the Song-Beverly
8 Consumer Warranty Act.

9 25. By failure of **Defendants** to remedy the defects as alleged above, or to issue a refund
10 or replacement, **Defendants** are in breach of their obligations under Song-Beverly.

11 26. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the Vehicle
12 and has exercised the right to cancel the purchase. By serving this Complaint, Plaintiff does so again.

13 27. Under Song-Beverly, Plaintiff is entitled to reimbursement of the price paid for the
14 Vehicle less that amount directly attributable to use by the Plaintiff prior to discovery of the
15 nonconformities.

16 28. Plaintiff is entitled to all incidental, consequential and general damages resulting from
17 Defendants' failure to comply with their obligations under Song-Beverly.

18 29. Plaintiff is entitled under Song-Beverly to recover as part of the judgment, a sum
19 equal to the aggregate amount of costs and expenses, including attorneys' fees, reasonably incurred
20 in connection with the commencement and prosecution of this action.

21 30. Plaintiff is entitled, in addition to the amounts recovered, to a civil penalty of up to
22 two times the amount of actual damages in that Defendants have willfully failed to comply with their
23 responsibilities under Song-Beverly.

24 **SECOND CAUSE OF ACTION**

25 **Violation of the Song-Beverly Consumer Warranty Act –**

26 **Breach of Implied Warranty**

27 31. Plaintiff incorporates by reference each and every allegation set forth in the preceding
28 and succeeding paragraphs as though herein fully restated and re-alleged.

1 32. **Defendants** had reason to know the purpose of the subject vehicle at the time of sale
2 of the subject vehicle. The sale of the subject vehicle was accompanied by an implied warranty of
3 fitness.

4 33. The sale of the subject vehicle was accompanied by an implied warranty that the
5 subject vehicle was merchantable pursuant to Civil Code section 1792.

6 34. The subject vehicle was not fit for the ordinary purpose for which such goods are used
7 because it was equipped with the defective parts and systems as set forth herein.

8 35. The subject vehicle did not measure up to the promises or facts stated on the container
9 or label because it was equipped with the defective parts and systems as set forth herein.

10 36. The subject vehicle was not of the same quality as those generally acceptable in the
11 trade because it was equipped with the defective parts and systems as set forth herein.

12 37. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the Vehicle
13 and has exercised the right to cancel the purchase. By serving this Complaint, Plaintiff does so again.

14 38. Plaintiff is entitled to replacement or reimbursement pursuant to Civil Code section
15 1794 *et seq.*

16 39. Plaintiff is entitled to rescission of the contract pursuant to Civil Code section 1794
17 *et seq.* and Commercial Code section 2711.

18 40. Plaintiff is entitled to any "cover" damages under Commercial Code sections 2711,
19 2712 and Civil Code section 1794 *et seq.*

20 41. Plaintiff is entitled to recover all incidental and consequential damages pursuant to
21 Civil Code section 1794 *et seq.* and Commercial Code sections 2711, 2712 and 2713 *et seq.*

22 42. Plaintiff is entitled under Song-Beverly to recover as part of the judgment, a sum
23 equal to the aggregate amount of costs and expenses, including attorneys' fees, reasonably incurred
24 in connection with the commencement and prosecution of this action.

25 ///

26 ///

27 ///

28 ///

THIRD CAUSE OF ACTION

Violation of the Song-Beverly Consumer Warranty Act –

Civil Code §1793.2(b)

43. Plaintiff incorporates by reference each and every allegation set forth in the preceding and succeeding paragraphs as though herein fully restated and re-alleged.

44. Pursuant to Civil Code section 1793.2(a), a manufacturer that sells consumer goods in California, for which it has made an express warranty, shall maintain service and repair facilities or designate and authorized independent service and repair facilities to carry out the terms of those warranties.

45. Civil Code section 1793.2(b) states that goods shall be serviced or repaired so as to conform to the applicable warranties within 30 days.

46. The sale of the subject vehicle was accompanied by express warranties, including a warranty guaranteeing that the subject vehicle was safe to drive and not equipped with defective parts and systems including the defective parts and systems alleged herein.

47. Plaintiff delivered the subject vehicle to **Defendants'** authorized repair facilities on multiple occasions. The subject vehicle was delivered for repairs of the defects alleged herein which amount to nonconformities to the express warranties that accompanied the sale of the subject vehicle.

48. Since delivery of the subject vehicle to **Defendants'** authorized repair facilities, over thirty days have past and **Defendants have** failed to tender the subject vehicle back to Plaintiff in conformance with its warranties.

49. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the Vehicle and has exercised the right to cancel the purchase. By serving this Complaint, Plaintiff does so again.

50. Plaintiff is entitled to replacement or reimbursement pursuant to Civil Code section 1794 *et seq.*

51. Plaintiff is entitled to rescission of the contract pursuant to Civil Code section 1794 *et seq.* and Commercial Code section 2711.

52. Plaintiff is entitled to any "cover" damages under Commercial Code sections 2711, 2712 and Civil Code section 1794 *et seq.*

53. Plaintiff is entitled to recover all incidental and consequential damages pursuant to Civil Code section 1794 *et seq.* and Commercial Code sections 2711, 2712 and 2713 *et seq.*

54. Plaintiff is entitled under Song-Beverly to recover as part of the judgment, a sum equal to the aggregate amount of costs and expenses, including attorneys' fees, reasonably incurred in connection with the commencement and prosecution of this action.

55. Plaintiff is entitled, in addition to the amounts recovered, to a civil penalty of up to two times the amount of actual damages in that Defendants have willfully failed to comply with their responsibilities under Song-Beverly.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For general, special and actual damages according to proof at trial;
2. For rescission of the purchase contract and restitution of all monies expended;
3. For diminution in value;
4. For incidental and consequential damages according to proof at trial;
5. For a civil penalty in the amount of two times Plaintiff's actual damages;
6. For pre-judgment interest at the legal rate;
7. For reasonable attorneys' fees and costs of suit;
8. For such other and further relief as the Court deems just and proper under the circumstances.

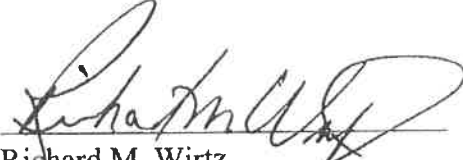
DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all causes of action asserted herein.

Date: February 9, 2022

WIRTZ LAW APC

By:


Richard M. Wirtz
Jessica R. Underwood
Attorneys for Plaintiff,
CHRISTIAN LIFE CENTER, INC.

WIRTZ LAW APC

Richard M. Wirtz (SBN 137812)
Amy R. Rotman (SBN 286128)
Jessica R. Underwood (SBN 306481)
4370 La Jolla Village Drive, Suite 800
San Diego, CA 92122
Telephone: (858) 259-5009
Email: eservice@wirtzlaw.com

JOURNEY LAW GROUP, INC.

Guy Mizrahi (SBN 220930)
1762 Westwood Blvd., Suite 260
Los Angeles, CA 90024
Telephone: (424) 206-4303
Email: guy@journeylawgroup.com

Attorneys for Plaintiff CHRISTIAN LIFE CENTER, INC.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN JOAQUIN – STOCKTON COURTHOUSE

**CHRISTIAN LIFE CENTER, INC., an
individual,**

Plaintiff,

vs.

**FORD MOTOR COMPANY, a Delaware
Corporation; ROUSH INDUSTRIES, INC., a
Corporation; ROUSH PERFORMANCE,
INC. aka KOVINGTON PERFORMANCE
HOLDINGS, INC., a Corporation; and DOES
3 through 20, inclusive,**

Defendants.

Case No.: STK-CV-UBC-2020-0004861
Unlimited Jurisdiction

PROOF OF SERVICE

I, Rebecca Evans, declare:

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is WIRTZ LAW APC, 4370 La Jolla Village Drive, Suite 800, San Diego, CA 92122.

1 On April 12, 2022, San Diego, California, each of the parties, attorneys, or other interested
2 individuals or entities identified on the Service List below were served as described below with a
3 true copy of the following document(s):

4 **FIRST AMENDED COMPLAINT**

5 ☐ BY MAIL: I deposited in the mail the document(s) listed in a sealed envelope, with
6 postage fully prepaid, addressed as per the Service List.

7 ☒ BY PERSONAL SERVICE: I used a process server to serve the above referenced
8 documents on the person(s) listed on the attached page.

9 ☐ BY ELECTRONIC DELIVERY: I sent via email by electronic attachment a PDF version
10 of the document(s) listed above, as addressed per the Service List.

11 I certify and declare under penalty of perjury under the laws of the State of California that
12 the above is true and correct and that this declaration was executed on April 12, 2022, at San Diego,
13 California.



14
15 Rebecca Evans

16 **SERVICE LIST**

17 **C T CORPORATION SYSTEM**
18 330 N BRAND BLVD STE 700
19 GLENDALE, CA 91203

20 *Agent of Service of Process for Roush Industries, Inc.*
21
22
23
24
25
26
27
28

Envelope: UPS_LETTER_CENTER
WINDOW
Total Pages: 13
Safety Seal(101761)

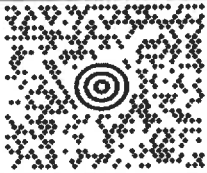


TERRITHONGSAVAT
2149323601
CT - DALLAS SOP TEAM
1999 BRYAN STREET
DALLAS TX 75201

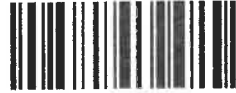
1.0 LBS LTR

1 OF 1

SHIP TO:
JAY R JOLLIFFE
7347797201
ROUSH INDUSTRIES, INC.
12445 LEVAN RD
LIVONIA MI 48150



MI 482 9-02



UPS NEXT DAY AIR

TRACKING #: 1Z X21 278 01 2458 4908

1



BILLING: P/P

Reference No.1: SOP/2401130/541414994/CT SOP Custo



XOL 22.04.15 NV45 16.0A 04/2022*

1882973

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Origin: Wolters Kluwer UPS 562130

UPS Tracking # : 1ZX212780124584908

Created By : BATCH BATCH

Created On : 04/15/2022 05:43 PM

Recipient :

Jay R Joliffe	
Title :	--
Customer :	Roush Industries, Inc.
Address :	12445 LEVAN RD
Email :	jay.joliffe@roush.com
Phone :	-7347797201
Fax :	-734-779-7917

Package Type : Envelope

Items shipped : 1

Log #	Case #	Entity Name
541414994	STKCVUBC20200004861	Roush Industries, Inc.

EXHIBIT “G”

From: Kevin Tully <kevin@tullylaw.net>

Sent: Wednesday, May 4, 2022 10:28 AM

To: John W. Myers IV <jmyers@beattymyers.com>

Cc: Cyndi Bowman-Raber <cbowmanraber@beattymyers.com>; Paralegal Tullylaw <paralegal@tullylaw.net>; Kevin Tully <kevin@tullylaw.net>

Subject: Kevin response re: Christian Life Center, Inc., v. Ford and Roush -- Ford will consent to removal

John --

Ford will consent to removal.

In the interim, we'll gather the background pleadings and discovery to forward to your office.

Please confirm receipt.

Thanks,

Kevin


Law Offices of Kevin J. Tully
411 Borel Avenue, Suite 500
San Mateo, CA 94402
Kevin@TullyLaw.net
phone (650) 377-0708
fax (650) 377-0606

ATTORNEY-CLIENT COMMUNICATION

This transmission contains material covered by the Attorney/Client privilege. This is intended as a confidential communication for the addressee only. If you are not the intended recipient or an employee responsible for receipt of this transmission, you should be aware that any distribution, copying, or communication of this transmission is prohibited. If you have received this communication in error, please notify us immediately.

EXHIBIT “H”

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Amy R. Rotman (SBN 286128) Wirtz Law APC 4370 La Jolla Village Drive, Suite 800 San Diego, CA 92122 TELEPHONE NO.: 858-259-5009 FAX NO. (Optional): E-MAIL ADDRESS (Optional): arotman@wirtzlaw.com ATTORNEY FOR (Name): Plaintiff Christian Life Center, Inc.	<div style="text-align: center;"> TH FILED FOR COURT USE ONLY 2022 APR -1 AM 9:23 BRANDON F. RILEY CLERK BY  DEPUTY </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN STREET ADDRESS: 180 E Weber Ave MAILING ADDRESS: 180 E Weber Ave CITY AND ZIP CODE: Stockton, 95202 BRANCH NAME: Stockton Courthouse	
PLAINTIFF/PETITIONER: Christian Life Center, Inc. DEFENDANT/RESPONDENT: Ford Motor Company, et al.	
CASE MANAGEMENT STATEMENT (Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)	CASE NUMBER: STK-CV-UBC-2020-0004861
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: 4/18/2022 Time: 8:45 a.m. Dept.: 10B Div.: Room: Address of court (if different from the address above): <input checked="" type="checkbox"/> Notice of Intent to Appear by Telephone, by (name): Jessica R. Underwood	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. ☒ This statement is submitted by party (name): Plaintiff Christian Life Center, Inc.
 - b. ☐ This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date): June 15, 2020
 - b. ☐ The cross-complaint, if any, was filed on (date):
3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. ☒ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. ☐ The following parties named in the complaint or cross-complaint
 - (1) ☐ have not been served (specify names and explain why not):
 - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
 - (3) ☐ have had a default entered against them (specify names):
 - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
4. **Description of case**
 - a. Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):
 This matter involves a 2019 Ford F150 manufactured and warranted by Defendant Ford Motor Company. Plaintiff's causes of action are: (1) Violation of Song-Beverly Act - Breach of Express Warranty; (2) Violation of Song-Beverly Act - Breach of Implied Warranty; and (3) Violation of Song-Beverly Act - Section 1793.2.

Page 1 of 5

FILE BY FAX

CM-110

PLAINTIFF/PETITIONER: Christian Life Center, Inc.
 DEFENDANT/RESPONDENT: Ford Motor Company, et al.

CASE NUMBER:
 STK-CV-UBC-2020-0004861

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*
 See attachment 4b.

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

- a. The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. ☐ The trial has been set for *(date)*:
 b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:
 c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. ☒ days *(specify number)*: 5-7 days
 b. ☐ hours *(short causes) (specify)*:

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

- a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

- b. **Referral to judicial arbitration or civil action mediation (if available).**

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

CM-110

PLAINTIFF/PETITIONER: Christian Life Center, Inc. DEFENDANT/RESPONDENT: Ford Motor Company, et al.	CASE NUMBER: STK-CV-UBC-2020-0004861
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input checked="" type="checkbox"/> Settlement conference completed on (date): 1-10-22
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

CM-110

PLAINTIFF/PETITIONER: Christian Life Center, Inc. DEFENDANT/RESPONDENT: Ford Motor Company, et al.	CASE NUMBER: STK-CV-UBC-2020-0004861
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11. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.

(1) Name of case:

(2) Name of court:

(3) Case number:

(4) Status:

☐ Additional cases are described in Attachment 13a.

- b. ☐ A motion to ☐ consolidate ☐ consolidate will be filed by (*name party*):

14. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- ☒ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):
Motions to Compel Written Discovery or Depositions as needed.

16. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Plaintiff	Written Discovery	per Code
Plaintiff	Depositions	per Code

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

CM-110

PLAINTIFF/PETITIONER: Christian Life Center, Inc.
 DEFENDANT/RESPONDENT: Ford Motor Company, et al.

CASE NUMBER:
 STK-CV-UBC-2020-0004861

17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): 1

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: 3/30/2022

Amy R. Rotman

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY)


 (SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

SHORT TITLE: Christian Life Center, Inc. v. Ford Motor Company, et al.	CASE NUMBER: STK-CV-UBC-2020-0004861
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ATTACHMENT (Number): 4b

(This Attachment may be used with any Judicial Council form.)

Plaintiff Christian Life Center, Inc. ("Plaintiff") purchased a new 2019 Ford F150 ("vehicle") manufactured and warranted by Defendant Ford Motor Company ("FMC") and presented the vehicle for repair at FMC's authorized repair facilities. Plaintiff recently amended the Complaint to add two Roush defendants ("Roush").

The paid or payable amount for the vehicle is \$91,299.52 as shown on the sales contract. Plaintiff estimates an additional \$10,000 in incidental and consequential damages. The mileage offset should be calculated using 6,711 miles as the mileage difference between purchase and the first repair opportunity given to FMC's dealerships. Plaintiff calculates the mileage offset as \$4,585.57. Accordingly, the estimated measure of Plaintiff's damages under the breach of express claim is approximately \$290,141.85 (incidental and consequential damages and three times the repurchase amount, including a full two-time civil penalty).

Defendants expressly and impliedly warranted the vehicle. The vehicle did not perform as stated for the time specified by the express warranty. Plaintiff delivered the vehicle to FMC's authorized repair facilities, multiple times for repairs covered by Defendants' warranties. Defendants failed to repair the vehicle after a reasonable number of repair opportunities.

Plaintiff's claims are as follows:

Breach of express warranty: Defendants violated the Song-Beverly Consumer Warranty Act ("SBA") by not repurchasing or replacing the vehicle promptly after a reasonably number of opportunities to repair the vehicle, which suffered from defects substantially impairing the vehicle's use, value, or safety to a reasonable person in Plaintiff's position.

Breach of implied warranty: Defendants violated SBA because the vehicle was not of the same quality as those generally acceptable in the trade and was not fit for the ordinary purposes for which the goods are used.

Civil Code 1793.2(b): Defendants violated SBA because it failed to repair the vehicle to conform to the express warranty within 30 days.

Plaintiff seeks rescission of the purchase contract, restitution of all monies expended and still owing for the vehicle, incidental and consequential damages, civil penalties in the amount of two-times Plaintiff's actual damages, according to proof at trial. Plaintiff also seeks prejudgment interest per Civil Code section 3287 and reasonable attorney's fees and costs and expenses per Civil Code section 1794.

FMC has answered the Complaint. Roush has not. Plaintiff requested a jury trial and paid jury fees on December 8, 2020.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1
(Add pages as required)